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11 IN THE UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF CALIFORNIA

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14 UNITED STATES OF AMERICA,
15 and
16 JOSE RODOLFO MORENO ALBESTRAIN,
17 PEDRO CERNA ARIAS,
18 Defendants.

CASE NO. 2:21-CR-188-DJC
STIPULATION REGARDING EXCLUDABLE
TIME PERIODS UNDER SPEEDY TRIAL ACT;
ORDER
DATE: February 1, 2024
TIME: 9:00 a.m.
COURT: Hon. Daniel J. Calabretta

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24 STIPULATION

25 Plaintiff United States of America, by and through its counsel of record, and defendants, by and
26 through their respective counsel of record, hereby stipulate as follows:

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28 1. By previous order, this matter was set for status on February 1, 2024.
2. By this stipulation, defendants now move to continue the status conference until February
15, 2024, at 9:00 a.m., and to exclude time between February 1, 2024, and February 15, 2024, under
Local Code T4.
3. The parties agree and stipulate, and request that the Court find the following:
a) The government has represented that the discovery associated with this case
includes more than 650 pages of investigative reports and other documents, as well as numerous

1 audio and video recordings. All of this discovery has been either produced directly to counsel
2 and/or made available for inspection and copying.

3 b) Counsel for defendants desire additional time to review the discovery, conduct
4 factual investigation, evaluate the charges in this case and potential defenses and resolutions,
5 consult with their clients, and otherwise prepare for trial. In addition, new counsel for defendant
6 Cerna Arias, Jessica Walsh, recently took over the representation in this case on or about
7 September 25, 2023. ECF No. 49. New counsel for Cerna Arias requires additional time to
8 review the case, consult with Cerna Arias, and prepare for trial.

9 c) Counsel for defendants believe that failure to grant the above-requested
10 continuance would deny them the reasonable time necessary for effective preparation, taking into
11 account the exercise of due diligence.

12 d) The government does not object to the continuance.

13 e) Based on the above-stated findings, the ends of justice served by continuing the
14 case as requested outweigh the interest of the public and the defendant in a trial within the
15 original date prescribed by the Speedy Trial Act.

16 f) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,
17 et seq., within which trial must commence, the time period of February 1, 2024, to February 15,
18 2024, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code
19 T4] because it results from a continuance granted by the Court at defendant's request on the basis
20 of the Court's finding that the ends of justice served by taking such action outweigh the best
21 interest of the public and the defendant in a speedy trial.

22 4. Nothing in this stipulation and order shall preclude a finding that other provisions of the
23 Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial
24 must commence.

25 IT IS SO STIPULATED.

1 Dated: January 29, 2024

PHILLIP A. TALBERT
United States Attorney

5 Dated: January 29, 2024

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3 /s/ DAVID W. SPENCER
4 DAVID W. SPENCER
Assistant United States Attorney

9 Dated: January 29, 2024

10 /s/ David D. Fischer
11 David D. Fischer
Counsel for Defendant
12 JOSE RODOLFO MORENO
13 ALBESTRAIN

14 **FINDINGS AND ORDER**

15 IT IS SO FOUND AND ORDERED this 30th day of January, 2024.

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17 /s/ Daniel J. Calabretta
18 THE HONORABLE DANIEL J. CALABRETTA
19 UNITED STATES DISTRICT JUDGE